

EXHIBIT A



Transcript of **CHRISTOPHER MICHAEL MARSTON**

Date: May 18, 2015

Case: BETHUNE-HILL, ET AL v. VIRGINIA STATE BOARD OF
ELECTIONS, ET AL

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DEPOSITION OF CHRISTOPHER MICHAEL MARSTON
CONDUCTED ON MONDAY, MAY 18, 2015

1 (Pages 1 to 4)

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF VIRGINIA</p> <p>3 RICHMOND DIVISION</p> <p>4 -----x</p> <p>5 GOLDEN BETHUNE-HILL, et al., :</p> <p>6 Plaintiffs, :</p> <p>7 v. : Civil Action No.</p> <p>8 VIRGINIA STATE BOARD OF ELECTIONS, : 3:14-cv-852</p> <p>9 et al., : REP-GBL-BMK</p> <p>10 Defendants, :</p> <p>11 and :</p> <p>12 VIRGINIA HOUSE OF DELEGATES, et al.,:</p> <p>13 Intervenor-Defendants. :</p> <p>14 -----x</p> <p>15</p> <p>16 Deposition of CHRISTOPHER MICHAEL MARSTON</p> <p>17 Washington, DC</p> <p>18 Monday, May 18, 2015</p> <p>19 9:51 a.m.</p> <p>20 Job No.: 81719</p> <p>21 Pages: 1 - 154</p> <p>22 Reported By: Dawn M. Hart, Notary Public, RPR/RMR/CRR</p>	<p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF THE PLAINTIFFS:</p> <p>3 BRUCE V. SPIVA, ESQUIRE</p> <p>4 ARIA BRANCH, ESQUIRE</p> <p>5 PERKINS COIE, LLP</p> <p>6 700 Thirteenth Street, NW</p> <p>7 Suite 600</p> <p>8 Washington, DC 20005</p> <p>9 (202) 654-6200</p> <p>10</p> <p>11 ON BEHALF OF THE DEFENDANTS:</p> <p>12 JEFFREY P. BRUNDAGE, ESQUIRE</p> <p>13 ECKERT SEAMANS CHERIN & MELLOTT, LLC</p> <p>14 1717 Pennsylvania Avenue, NW</p> <p>15 Suite 1200</p> <p>16 Washington, DC 20006</p> <p>17 (202) 659-6600</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p>1 Deposition of CHRISTOPHER MICHAEL MARSTON, held</p> <p>2 at the law offices of:</p> <p>3</p> <p>4</p> <p>5 PERKINS COIE, LLP</p> <p>6 700 Thirteenth Street, NW</p> <p>7 Suite 600</p> <p>8 Washington, DC 20005</p> <p>9 (202) 654-6200</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Pursuant to Notice, before Dawn M. Hart,</p> <p>15 RPR/RMR/CRR and Notary Public in and for the District</p> <p>16 of Columbia.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2 ON BEHALF OF THE INTERVENOR-DEFENDANTS:</p> <p>3 JENNIFER M. WALRATH, ESQUIRE</p> <p>4 E. MARK BRADEN, ESQUIRE</p> <p>5 BAKER HOSTETLER, LLP</p> <p>6 Washington Square</p> <p>7 1050 Connecticut Avenue, NW</p> <p>8 Suite 1100</p> <p>9 Washington, DC 20036</p> <p>10 (202) 861-1500</p> <p>11</p> <p>12 DALTON L. OLDHAM, ESQUIRE</p> <p>13 SOUTHEASTERN LEGAL FOUNDATION</p> <p>14 1419 Pendleton Street</p> <p>15 Columbia, South Carolina 29210</p> <p>16 (803) 772-7729</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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12 (Pages 45 to 48)

<p style="text-align: right;">45</p> <p>1 American Community Survey.</p> <p>2 Q For what purpose did you collect that data?</p> <p>3 A To support our redistricting efforts,</p> <p>4 including compliance with the Voting Rights Act.</p> <p>5 Q I take it from that answer that some of the</p> <p>6 data you collected was data regarding race?</p> <p>7 A Yes.</p> <p>8 Q When you say to facilitate compliance with</p> <p>9 the Voting Rights Act, tell me what you mean by that.</p> <p>10 A So I mean exactly that, compliance with the</p> <p>11 Voting Rights Act. It imposes requirements on states,</p> <p>12 particularly those that require or required</p> <p>13 preclearance from a Court or the Department of</p> <p>14 Justice, and there are a host of judicial decisions</p> <p>15 and administrative guidelines from the Department of</p> <p>16 Justice regarding what it requires to be precleared,</p> <p>17 and you have to provide data in that process.</p> <p>18 Q The demographic data that you collected, did</p> <p>19 you use that in the map drawing function?</p> <p>20 A Yes.</p> <p>21 Q In what way did you use that data, the race</p> <p>22 data?</p>	<p style="text-align: right;">47</p> <p>1 plan.</p> <p>2 Q The data collection and analysis you've been</p> <p>3 referring to, at least with regard to race, was that</p> <p>4 aimed at determining whether the map would cause</p> <p>5 retrogression?</p> <p>6 A Yes.</p> <p>7 Q How did you determine whether a minority</p> <p>8 group or minority groups would have a lesser</p> <p>9 opportunity to elect a candidate of their choice?</p> <p>10 A We didn't have a hard-and-fast rule to</p> <p>11 determine that. As with many things in the law, it's</p> <p>12 a bit of a judgment call.</p> <p>13 I don't recall how many court decisions I</p> <p>14 read, but I couldn't get the same answer out of all of</p> <p>15 them as to what I needed to do, so we did our best and</p> <p>16 sought legal advice to see if what we were doing</p> <p>17 appeared to be compliant.</p> <p>18 Q Did you do -- when I said did "you" do, I</p> <p>19 mean did you do or direct or interact with one of your</p> <p>20 consultants who was doing any data analysis to</p> <p>21 determine whether a proposed plan would cause</p> <p>22 retrogression?</p>
<p style="text-align: right;">46</p> <p>1 A Along with political data, population data</p> <p>2 and the like, it was part of the data view we would</p> <p>3 have as we would draw districts so we could have</p> <p>4 descriptive characteristics of districts as we drew</p> <p>5 them.</p> <p>6 Q Why did that matter, what the race data was,</p> <p>7 in terms of the drawing of the districts?</p> <p>8 A The Voting Rights Act imposes various</p> <p>9 requirements about racial composition of districts,</p> <p>10 and we needed to know if we were complying.</p> <p>11 Q What is your understanding of the</p> <p>12 requirements that the Voting Rights Act imposes in</p> <p>13 terms of redistricting?</p> <p>14 A Four years on, my recollection is a little</p> <p>15 rusty. I know you can't have retrogression, and I</p> <p>16 know that -- that's pretty much what I know.</p> <p>17 Q Fair enough.</p> <p>18 What's your understanding of the term</p> <p>19 "retrogression"?</p> <p>20 A My recollection is that it means that a</p> <p>21 minority group can't have a less of an opportunity to</p> <p>22 elect a candidate of their choice than under a prior</p>	<p style="text-align: right;">48</p> <p>1 A Yes.</p> <p>2 Q Tell me about that.</p> <p>3 A As we were preparing a plan and when we</p> <p>4 finished a plan, we would ask our attorneys for their</p> <p>5 opinion as to whether or not they thought that there</p> <p>6 was retrogression and, more importantly, whether it</p> <p>7 could be precleared.</p> <p>8 Q I guess I'm asking more of a factual</p> <p>9 question, which is, how did you use the data to</p> <p>10 determine whether or not there was retrogression?</p> <p>11 A So we would prepare a list of the 100</p> <p>12 districts and their racial composition and consult</p> <p>13 with our attorneys to see what they thought about</p> <p>14 whether or not we could successfully get the plan</p> <p>15 precleared.</p> <p>16 Q Did you do any other data analysis or</p> <p>17 gathering other than creating a list of the 100</p> <p>18 districts and the racial composition in terms of</p> <p>19 trying to determine whether there would be</p> <p>20 retrogression?</p> <p>21 A I gathered, but never used, information</p> <p>22 about election contests that featured a Black and a</p>